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2007 HOUSE JUDICIARY

HB 1126

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1126

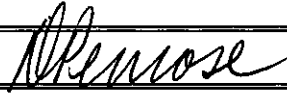
House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/10/07

Recorder Job Number: 891

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1126.

Randy Blaseg, Director of Racing, ND Racing Commission: (see attached testimony).

Rep. Delmore: I have seen a lot of legislation that has been passed through. I have a couple of questions about where you are. How many sites do we have, two?

Randy Blaseg: We have four simulcast sites.

Rep. Delmore: In looking at your resources, how much money goes into the promotion fund.

Randy Blaseg: At the present time, I don't have the exact figure in front of me, approximately \$850,000.

Rep. Delmore: Are you subject to audits by the State, just to check where the funds are at.

Randy Blaseg: Yes, there was an audit this past spring, by the State.

Rep. Delmore: If there were issues in the audit, were they addressed?

Randy Blaseg: We were not notified of any irregularities, whatsoever.

Rep. Meyer: I believe last biennium we gave your office \$5,000 to promulgate the rules. That hasn't been done, I was wondering whether the \$5,000 was used.

Randy Blaseg: At this time, we are in the process of adopting a new set of rules and regulations. They are still being reviewed by the Commissioners and the public at large will have to review them. So it is in process.

Rep. Meyer: On page 6, section 6, lines 11-13 of the bill, some of the new language "the commission may receive no more than 25% of the racing promotion fund for the payment of the commission's operating expenses". I don't know if we want that to be that way, but the way this is written, it indicates that you could have, not just the money that was appropriated for you this biennium but you would have access to 25% of the racing promotion fund. That racing promotion fund has been accruing for quite some time. And for the administration of your commission, instead of using the state general fund money where the revenues go into to support this commission, you're taking it out of the racing promotion fund. What was your percentage before, and is that how you intended it to be, that you get 25% of the entire fund as accrued or just this biennium.

Randy Blaseg: The intent is to use only that portion which may or may not need.

Rep. Meyer: But it does give you the authority to use the entire 25% if you wish to.

Randy Blaseg: That is correct, it does, based on the way the bill is written.

Chairman DeKrey: I'd like to go back to Rep. Rep. Meyer's question on the rules. I sit on that rules committee and I haven't seen any advertising in any local papers that you are promulgating rules. So, where are you in that process. Are you going to be advertising your hearing soon?

Randy Blaseg: Yes, that is correct.

Rep. Klemin: I'm trying to go through this bill and figure out where the changes are. I see the current law was due to expire on June 30, 2007, and this bill is continuing this tax procedure on after June 30, 2007. I can see that you broke this out in a little more detail for

certain kinds of betting and now you have a new category for account wagering. I have a little trouble seeing where the tax rate has changed in here. Can you point that out.

Randy Blaseg: On page 4, #2, below (d) it applies to the account wagering process. Once the full amount wagered within the state during that biennium has its \$11 million dollars, the tax rate on account wagering is reduced to $\frac{1}{4}$ of 1%.

Rep. Klemin: What is it now?

Randy Blaseg: That's what it is right now.

Rep. Klemin: That's my question, how is it changing.

Randy Blaseg: As of June 30, it reverts to a different tax structure, as legislation is at the present time. On that date, they would have to meet a new threshold level, go from $\frac{1}{4}$ of 1% to approximately a 4% rate. In other words, the $\frac{1}{4}$ % that is in place at this time right now, goes away June 30th. It reverts back to all types of wagering will go back to 4%.

Rep. Klemin: That's if we don't pass this bill.

Randy Blaseg: That's correct. If we do pass this bill, the account wagering will have to revert, at the beginning of that biennium they would have to meet the \$11 million threshold, at the basic 4% rate, then from then on, it will sit at $\frac{1}{4}$ %. All other forms of wagering in the state, will stay at this so-called $\frac{1}{4}$ % level year round.

Rep. Klemin: Is that a change from what we're doing right now.

Randy Blaseg: That's correct. We are at $\frac{1}{4}$ % right now; all of our walk-up sites are also at $\frac{1}{4}$ %. The people placing wagers at our local walk-up sites receive no benefit by having it at the lower tax rate. There is no benefit to them. The State does not receive, in our payment, the funds that it should from that particular type of wagering.

Rep. Klemin: Just to clear my understanding of this, the account wagers are going to continue to receive the lower rate, but the walk-up people are going to have higher rates.

Randy Blaseg: That's correct. They will have a higher rate, but the people placing the wagers will receive the same payout that they are receiving now.

Rep. Klemin: So it's a tax increase for the walk-up sites.

Randy Blaseg: That's correct.

Rep. Koppelman: The question that was asked earlier about rules, I don't know if you are familiar, this is probably the first time you promulgated rules with the process in ND, which is regulated by law, and ultimately involves public hearings. According to Legislative Council, you haven't filed any notice of intent to make rules which is the first step in that process. You said it was in the works, are you about to do that, or what.

Randy Blaseg: Yes. We are in the process.

Rep. Koppelman: When do you anticipate that happening, in the near future?

Rep. Charging: In Section 1, the racing promotion fund, it is very broad, in the sense that you are to be promoting horse racing in ND. Are you developing new tracks for horse racing. This is pretty broad language.

Randy Blaseg: In response to your question, are you talking about dealing with the racing funds. The Racing Commission grants awards from the promotion fund to those from whom we receive requests. We then grant awards to people that make the requests for the money to be utilized. They then move forward and actually do the promoting.

Rep. Charging: And who determines where that goes, from the racing promotion fund.

Randy Blaseg: We have a deadline date each year when the application have to be turned in, they are reviewed by the five racing commissioners and they determine whether or not they wish to grant funds to them for whatever reason they put in the grant application.

Chairman DeKrey: Who are some of the groups that apply for these funds.

Randy Blaseg: We've had a variety of places, including fairgrounds that want to put on an activity. I would like nothing more to be able to award money for purposes just like that.

Chairman DeKrey: Thank you for appearing. Further testimony in support.

Mike Cichy, PTC: I am one of the service providers. I support the legislation. I wanted to clear up a couple of things that may have been confusing. The walk-up OTB that was discussed earlier – the player gets the same amount of money for his bet no matter what the tax structure is. It's what accrues to the State that changes and to the promotion fund. But the players see no difference in what he gets now; six years ago or six months from now that all stays the same. As far as the discussion of the promotion fund, that money has gone to live racing in Belcourt, live racing in Fargo; it's purchased equipment, track conditioner, starting gates; the infrastructure structure necessary to operate the tracks.

Rep. Koppelman: I'm a little confused on the terminology, when you say promotion fund, that almost sounds more like an operating fund for equipment or maintenance fund, being used for those kinds of items.

Mike Cichy: As it has evolved over the years, I've been involved in this end of the operation since 1994 and I hesitate to second guess the people that wrote the enabling legislation four years before that. But the legislative intent was to use simulcast wagering to promote live racing in ND. So they have three funds: purse fund, breed fund and promotion fund. The use of the promotion fund had always been, in my opinion, not bad but very broad base as to what they use it for. They use it to promote a walk-up OTB as they gather around the state, and when they evolved into the big player business, the big players were the ones that generated the largest amount of promotion money, and that money was used to purchase the infrastructure necessary to run the race track. That's how it evolved. I'm not familiar with the

precise language of the initial legislation. That's what it was for, and through a series of commissions, that's how it evolved.

Rep. Charging: The Racing Promotion Fund covers a very broad area. Shouldn't we be promoting the end product?

Mike Cichy: I wouldn't even dare go there because that was the various racing commissions in session with counsel that moved in that direction. From a historic point, initially they envisioned it differently. As the years went by, they realized that the small towns wouldn't be able to support a fair circuit. Then the decision was made to change the way the fund was handled.

Chairman DeKrey: Thank you for appearing. Further testimony in support.

Rep. Tracy Boe: I'm here to testify in support of HB 1126. Perhaps we can draft some kind of amendment to put some kind of reporting requirements for the commission. Most commissions in the state have a reporting requirement.

Chairman DeKrey: Are we talking Legislative Council or the Legislative Management Committee or did you want it to report to an agency.

Rep. Tracy Boe: Maybe even the Judiciary Committee. I serve on the Ag Committee and we get reports from just about every commission that's Ag related. Every biennium they come in and they report how they've handled their funding, etc. I think it works very well.

Chairman DeKrey: Thank you. Further testimony in support.

Randy Schwartz: I am a breeder of racing horses, of several different breeds. In general, I am in support of this bill as far as the take out for those percentages paid to the funds. I do have one objection to it, that in Section 1 that we are paying the commission to operate and expend from the promotion fund. I think it should come out of the General Fund. In addition to that, the 25% cap per funding, that the Racing Commission would be a floating number, it

could become astronomical; it's not a good way to fund the commission. The possibility of grossly overfunded is very real. No one can stop commissioners from taking money out of there.

Rep. Onstad: Would you be okay with it if it were to have a set amount.

Randy Schwartz: Yes.

Chairman DeKrey: (to Rep. Koppelman) You served on the Appropriations Committee, we got a copy of the budget here, so the language in this bill, when it says up to 25%, would that be limited to what is proposed in this budget, or if they have no fund like that, could they seed this budget.

Rep. Koppelman: I think the Appropriations Committee has their own computations.

Chairman DeKrey: Does this need to go to the Appropriations Committee, even though it doesn't have money on it.

Rep. Koppelman: I think it probably should.

Rep. Meyer: Just for clarification, I passed out their appropriation. When you read it, on line 22, they are requesting \$407,000. That's basically to operate an office with two people, but as you see beneath that, on line 23, less estimated income of \$286,924 is coming out of the racing promotion fund. I don't believe there is any cap.

Chairman DeKrey: Would they be limited to do that, to the \$286,924.

Rep. Koppelman: I would be happy to look into that.

Chairman DeKrey: We're going to have to look into that more closely.

Rep. Koppelman: Mr. Schwartz, you mentioned the promotion fund. You said the general operating funds should come from the general fund. Are you speaking of the State's General fund.

Randy Schwartz: Yes, they would have to have an appropriation from the State.

Rep. Koppelman: Mr. Cichy mentioned three different funds.

Randy Schwartz: There are four distributions in one. There's 2% that goes to the State General Fund up to \$11 million dollars, then there's a ½% that goes to the breeder's fund, ½% that goes to the purse fund and ½% that goes to the promotion fund. So there's money from the pari-mutuel betting going into the general fund.

Chairman DeKrey: I guess my question would be, could this be simplified somehow, it seems like we've got one commission and all these different funds and if all we're doing is operating the commission anyway, why do we need all these different funds.

Randy Schwartz: It's to make a broad base of distribution of funds to all people involved in racing. In fact, I've built up a clientele to buy the horses that I raise and they run them. My incentive is the breeder's fund. The owner that bought that horse from me, who's going to campaign is going to realize his greatest revenue from the purse fund. He gets some percentage from the breeder's fund as well. The promotion fund is used to promote the race so you get a large live handle, which increases the purse as well.

Chairman DeKrey: It's not the committee's purview to get into that, that's the Appropriations problem. I guess my question is if we have a 2 people office, why do you need four funds to run it, but I think you have explained it fairly well.

Rep. Charging: I'm curious about the breeder's fund. Is that available to all counties in ND, or just limited to ND sites.

Randy Schwartz: If the horses are in the state, and they are from out-of-state, they can run and be eligible, if the mare is housed in ND and the baby has to be foaled out in the state, and register with the racing commission as a certified ND bred, then you are eligible for the breeder's fund. There is a lot of latitude in the way that the promotion fund is spent.

Chairman DeKrey: Thank you. Further testimony in support.

Wes Heinrich, Chairman of the ND Horseman's Advisory Board: We are a board that was put together by the commission to advise them on racing issues as they come up. We met last night to discuss this bill, and there are a couple of issues that we're concerned with. Section 1 in the racing promotion fund, which has been touched on before, I believe that is new wording, the paying of the commission's operating expenses. I believe that the operating expenses were originally intended to come out of the 2% that's going to the General Fund. So what they're trying to do, is change that around and additionally, which Rep. Meyer brought up earlier on page 6, lines 11-13, that the commission would receive no more than 25% of the racing promotion fund for payment of the commission's operating expenses. We would prefer to have that struck from the bill, that whole sentence; along with the section added to the promotion fund. That's what we voted on last night as industry advisors. Part of the reason being is there is only \$850,000 in the promotion fund right now. If they could take that 25%, in 4 years it would be gone. It has taken 10+ years to get where it is now. We're in a struggle like a lot of other industries. Promotion is a pretty important part of what we do.

Rep. Meyer: You stated that you were head of the Horseman's Advisory Council or a member.

Wes Heinrich: I am the chairman.

Rep. Meyer: How many times have you met with the Racing Commission.

Wes Heinrich: We have yet to meet with them, and we were originally appointed back under Mr. Bollinger's administration. We invited several times and have yet to meet with the commission.

Rep. Meyer: You are in law, correct. Your group is in law.

Wes Heinrich: I understand that we are, being we were appointed by the Commission themselves. We're just not a select group of one, with a certain intent. We are thoroughbreds,

quarter horses. The commission set up a charter for any racing breed that's in the state, they picked a couple individuals that were leaders in that group; they wanted them on the commission.

Rep. Meyer: Have you ever requested to be placed on the agenda to bring forward issues or help with the rules.

Wes Heinrich: I understand that we have, we've requested several times to come to all meetings, also.

Rep. Meyer: And nothing happened.

Wes Heinrich: Not to my understanding.

Rep. Onstad: With the definition of this advisory group, what is your group, what is the intent of that definition that you are advisory. So what do you feel your intent is.

Wes Heinrich: I believe, in our capacity as an advisory member, is to be part of the process of growing our industries in the state and in making decisions that has anything to do with our industry, such as changing the rules. We should have an active part involved in our industry. This is what we do.

Rep. Onstad: So the change from 1/16% of 1% to 1/2 of 1%.

Wes Heinrich: That does not bother us, because they did do their homework. It is a competitive industry, in the large volume bettors. We need that breakage in order for them to bet.

Rep. Onstad: Maybe it should be 3/4 of 1%.

Wes Heinrich: That isn't where our strong suit is. We put our faith in Mr. Cichy and the Deputy Director to figure out those problems. We understand the breed rules and everything that goes along with it and how our funds are funded and where the money goes, and how we can survive in this competitive world of horse racing.

Rep. Meyer: With your breed funds, have your breed funds ever been taken out to use for any other purpose, other than paying your breeders.

Wes Heinrich: Not that I am aware of at this point. There is some speculation on some other items which I don't want to bring up today. I believe not. The funded racers, but utilized breeder's fund horses, ND bred races.

Chairman DeKrey: Thank you. Further testimony in support.

Rep. Rod Froelich: I am not here in support or opposition to the bill. But there are things that have come to light. I don't have a horse in this race. When this thing got set up years ago, I was involved in the setup of the three funds. The State of ND gets all of the general fund money for the racing commission. I haven't seen the numbers. If that money is there, why should we not be going back to the General Fund to administer this, because it's not a horse fund. That's money that comes from the General Fund. That should be going back, in my opinion, to administer this horse racing commission. So if I were to amend this bill, I would take out the promotion fund, instead of paying the commission, that should be coming out of the general fund in my opinion. You can kick this around all you want about giving big bettors a break. That is the committee's decision. On page 6, the same thing. The racing commission shall not receive more than 25% from the racing promotion fund. That promotion fund is set up to promote horse racing in ND, not to administer the costs. We're supposed to be promoting things, not taking this money out of here.

Rep. Delmore: Do we know how much money is being put into the general fund.

Rep. Rod Froelich: I don't know. This is coming up today. The money is there. The other thing that was brought up, and I believe wholeheartedly, that the racing commission should report to somebody, whether that be this committee, the audit fiscal review, the AG's office, somebody. We don't need a fiasco like we had a few years ago. My recommendation

is that the operating expenses come out of general funds, which is where the money went into and have them report to someone.

Rep. Koppelman: I think we need to look into this a bit deeper as we go forward. I didn't have the appropriation bill that was passed out earlier, but as I read this, it shows based on funding, it shows funding adjustments or enhancements in the final appropriation. Essentially it amounts to a net general fund appropriation of \$120,000 but that's considering the racing commission bringing money into the state and the money that's being appropriated and so on. As I look at this bill, I would be very interested in how this is reconciled. It appears to me that this provision in section 1, that we've been talking about, the racing promotion fund, if it calls for the commission's operating expenses to be paid from the promotion fund, it becomes kind of a black hole and maybe this is well defined somewhere, I just don't see it. Every other entity in state government that receives money from the general fund presents a budget and appropriations deals with that. It appears to me in language in HB 1126, would simply say, 'take what you need'. I don't know of any other entity in the state where you can do that.

Rep. Rod Froelich: If you leave this open, they can take 25%, and I don't think they should be taking anything from it.

Rep. Charging: This legislation is supposed to define what the racing promotion fund.

Rep. Rod Froelich: Yes.

Rep. Charging: We're kind of redefining the amount that would go to it, for improving and upgrading race tracks, promoting horse racing, developing new tracks, etc. Is that what promotion means.

Rep. Rod Froelich: I agree with you. That's what racing promotion is not; promoting races is what it is supposed to do, not paying administrative or operating expenses. Expenses should come from the general fund.

Rep. Koppelman: You said you were around when this legislation happened.

Rep. Rod Froelich: I was involved with it.

Rep. Koppelman: I was wondering if the intent, and it seems to me that Mr. Cichy testified earlier, that couldn't find things to promote so they spent the money on other things, on things that enhanced horse racing value. I believe promotion funds should be used for advertising, marketing, those are things that are promotion, or promoting the industry. Then you should have a race track expansion fund or an operating fund.

Rep. Rod Froelich: That's my idea, when you set these funds up, you don't go and rob them to pay other expenses. You don't rob one fund to pay another.

Chairman DeKrey: Thank you. Further testimony in support or opposition.

Jim Clement: I am a member of the racing commission. I am in support of the bill, except for the issues raised about using the promotion fund for operating expenses of the racing commission. The real issue, and one thing that's not been discussed, is something called breakage. It actually generates the most dollars coming back to state funds than all the other funds combined. To answer your questions about where the revenue goes, year to date, the handle or dollars that have gone through the pari-mutuel wagering system or simulcast or live racing is about \$75 million dollars. At the old tax structure, that would put over \$3 million dollars in the coffers. In the new tax structure, it's put less than \$300,000; so it's a 90% reduction in taxes associated with pari-mutuel racing. That is what the last legislation did. I would agree with what has been said, if we want to lure the big bettors, we are going to have to be at that ¼% and I support and encourage any research into this matter, because I don't know what the magic numbers are in order to court those people, you have to be competitive or you won't get them. That ¼% is probably where we need to be. I also support that the tax break not be extended to the walk-in off-track betting. The real issue here is the need to

create revenue to support live racing in ND. If we don't, this will all go away. The promotion fund, historically, has been used to promote live racing. The money that built the horse park has come from that promotion fund. In the past, breakage, which this year is \$218,000, has all gone to the promotion fund. The legislation that was passed in the last legislative session split that 3 ways, 1/3 to the simulcast service provider, 1/3 to the charity and 1/3 back to the promotion fund. What this bill does, it returns it all to the promotion fund, that's the way it should be. I support this, however, I would agree with Rep. DeKrey, I do not support taking the 25% coming from the promotion fund. To clarify the dollars, if you look at the biennium, this is fairly close, you take the \$11 million dollars at 2% that would be \$220,000 that flowed into the general fund. This year, the total amount in the general fund is about \$46,000. The biennium today is probably somewhere around \$280,000.

Chairman DeKrey: I think what we'll do, is I will meet with Rep. Svedjan, the chairman of the appropriations committee and we will talk about how we're going to meld these two bills so the overlap makes some sense. I think if we pass a policy bill here and appropriations doesn't even know about it, we could be setting ourselves up for problems. After I talk with him, we will come back and discuss this further. We are not going to act on this today. Further testimony in support, in opposition.

Doug Plummer: I race horses and have run them for a long time. I am opposed to this bill, because there are so many flaws in this bill. The 2% is onto the general fund. The operating expenses come from the promotion fund, which you can hardly call it a promotion fund, when you rob it to run the racing commission. I think this is unrealistic legislation.

Chairman DeKrey: Thank you. Further testimony in support or opposition.

Mike Cichy: The portable stalls were purchased by the Pari-mutuel horse racing association with promotion money awarded to it by the racing commission.

Chairman DeKrey: Further testimony? We are going to close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1126

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/15/07

Recorder Job Number: 1124

Committee Clerk Signature

A. Penrose

Minutes:

Chairman DeKrey: We will take a look at HB 1126. Rep. Meyer you have some amendments.

Rep. Meyer: Explained the amendments (see attached testimony). The bill we are looking at now, we had put in place in the last session, and it did have a sunset clause on it. The members who were on the committee before, we had people that had concerns about it, and we told them that we would take a long, hard look at it, and we wouldn't just automatically let it go. This bill does have some changes to it. When we worked on the bill last session, it is in the law now, and I'm referring to page 1, after line 11, section 2, that was amended that they have to report biennially to the Legislative Council regarding operation of the Commission. Right now, after we passed this last session, we also made the racing commission a stand-alone agency. In essence, what happened at that time, is that they don't have to report to anybody. That is creating a few problems and also one of the changes, on page 6, line 11 after commission insert "upon approval of the emergency commission". When we did this bill last session, in previous law, it always was law that the commission could receive up to 25% of this fund, but they had to request this from the emergency commission, and basically that was inadvertently left off when we passed this bill two years ago. It should have been left in there

and we then we thought it wasn't going to be that much of a change. But in looking at it now, we changed the breakage percentage that I really feel, that because there isn't going to be more money going into the promotion fund, that we're going to have them approach the emergency commission so that somebody is watching this fund.

Chairman DeKrey: So after we had passed their appropriation, they would be able to operate this as business as usual up until their appropriation ends and then if they need more funding, they can go up to 25%, only they would have to get it from the emergency commission.

Rep. Meyer: Yes, on approval. They do operate that way now, they do take 25%, in present law right now. But what happened, was that that was inadvertently left off when we worked on this bill two years ago. The subcommittee that worked on this bill and why I don't know, but they said it was going to sunset in two years anyway. So that we could revisit it at that time. Basically, that's what it does. They have to report if they start going over that budget, that they get approval from the emergency commission.

Chairman DeKrey: That's just like any other agency.

Rep. Meyer: Right, just like any other agency; so with the breakage formula in the bill, there's going to be more money in the racing promotion fund. It's just a check and balance. I think it's a good bill, I like how the breakage is. The only other change is that they have to report biennially to the Legislative Council regarding operations of the commission. But every single other agency has to do this as well. Other than that, the content of the bill, I think it's fine. I move the amendment.

Rep. Koppelman: Second.

Randy Blaseg, Racing Commission: As I read this bill, I would understand that all this would do is require us, if we did go over our budget, we would go to the emergency commission. I have no objection to that whatsoever.

Rep. Klemin: I have a question about page 6, line 11, where that language is placed.

Chairman DeKrey: After the second "commission".

Rep. Klemin: So it links to the second "commission".

Rep. Meyer: Yes.

Rep. Klemin: In looking at that line, on lines 11-13 that's where it says "upon the approval of the emergency commission" may receive no more than 25% of the racing promotion fund.

Rep. Meyer: That's the same language that was in it before. When we worked on the bill two years ago, it was inadvertently left off, it's on page 585 in chapter 10A.

Rep. Klemin: I look on page 5 of this bill, lines 15-16, where it's crossed out, notwithstanding this section, the commission may receive no more than 25% of this fund for the purpose of payment of operating expenses of the commission. Is that what you are referring to?

Rep. Meyer: No, in the Code, when we did this bill two years ago, and the subcommittee that was working on this bill, where this language is from, it was inadvertently left off.

Rep. Klemin: So it was in previously, then two years ago we changed and took that out, and now we're putting it back in.

Rep. Meyer: Yes, putting it back in.

Chairman DeKrey: We will take a voice vote. Motion carried. I have an amendment that I handed out, that we can take a look at. My amendment will place in Code that the ND Horsemen's Advisory Council to the commission, by law, would always be on the agenda of their meetings. There was a lot of talk about whether or not communication between the

commission and the horse groups. My amendment will state, by law, they are included. That should foster communication.

Rep. Boehning: I move the DeKrey amendment.

Rep. Delmore: Second.

Randy Blaseg: I think it's good, I really do to do this. The only thing that I would add to this is that I would like to have them contact me in advance to tell me what they wish to have discussed, so that I can then inform the commissioners prior to the meeting so they have an opportunity to be aware of what the discussion is going to be about. I don't feel that we should have this meeting and catch everybody off guard.

Chairman DeKrey: What would we do to fix that.

Rep. Meyer: Every weekend we go home and when you're a public servant and the racing commission is that, the process of open communication is really having them heard there. Right now, when they go to meetings they aren't recognized under New Business or Old Business, or whatever. They aren't recognized because they aren't legitimately on the agenda. Then they call the next month and request to be placed on the agenda, and they are told "no". I just think that there hasn't been open communication. You can't predict everything that they're going to say or why would they want to. It's open and accountable government. That's what we are striving for. We haven't seen that happening in the past. If it starts a chain of open communication and fixes a lot of things, we should do that.

Randy Blaseg: I do feel that you have commissioners that would like to give thought to what is going to be discussed prior to the meeting.

Rep. Onstad: If I were represented the Horsemen Council, and I called up on the 15th and said I want to be on the agenda and we want to talk about this "topic", is that enough notice.

Randy Blaseg: Yes, it is. I have no objection to that. What I am trying to avoid is to have a meeting that becomes a disjointed meeting. I just feel that there should be some topic that the board is attempting to resolve an issue on. That will give the commissioners an opportunity to give consideration to this prior to the meeting. I am just attempting to be fair to my commissioners as well as the association. It is the right thing to do. I fully support this.

Rep. Meyer: So you have no objection to this.

Randy Blaseg: No.

Rep. Klemin: In consideration of Mr. Blaseg's concern, if we revised this a little bit, on the line where it says, "participate in the meetings through placement on the agenda" of specific agenda items requested by Council.

Rep. Koppelman: Would it just be less cumbersome to just say through "placement of items on the agenda". I move that amendment to the Amendment.

Rep. Klemin: Second.

Rep. Meyer: I'm fine with that as long as it doesn't get to be such a narrow parameter that when they come forward and say well, you didn't say that you wanted to talk about this, when you wanted to talk about that. If it gets to be too narrow of a parameter that's not what we want either. There's a track record here where they're not allowed to speak at all.

Rep. Koppelman: I think if this passes, the intent of the legislature is clear, our discussion is part of the public record, and I think the intent of everybody here, including what I am hearing from Mr. Blaseg, is that there is communication to work hand in hand. The spirit of the intent of what we are doing here, is that each group be heard, but we can't do anything legislatively to enforce that either. I would hope that this would be a reminder to everyone to get along and communicate.

Chairman DeKrey: Further discussion. Voice Vote. Motion carried on the Amendment to the DeKrey Amendment. We now have the amended amendment before us. Voice vote. Motion carried.

Rep. Meyer: I move the Meyer Amendment.

Rep. Klemin: Second.

Chairman DeKrey: Voice vote. Motion carried.

Rep. Delmore: I move a Do Pass as amended and Rereferred to Appropriations.

Rep. Boehning: Seconded.

14 YES 0 NO 0 ABSENT

DO PASS AS AMENDED CARRIER: Rep. Onstad

FISCAL NOTE
Requested by Legislative Council
03/23/2007

Amendment to: Engrossed
 HB 1126

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$307,625	\$740,966	\$307,625	\$740,966
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendment has no impact on the fiscal note.

There is no effect on appropriations because the purse, breeders and promotion funds are considered continuing appropriations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2209 as amended into HB 1126 is requiring an expenditure of \$60,000. Racing Comm. budget has no funding for this amendment. If approved above our current allocation the Comm. will need an additional \$60,000 in funding for the Attorney Gen. cost of Auditing and investigation.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Due to a basic change in tax rate or percentage, the general fund will receive an estimated additional 307,625 in 2007-09. The purse, breeders, and promotional funds will receive an estimated additional \$740,966 in 2007-09.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

None - continuing appropriations.

Name:	Sandy Paulson	Agency:	OMB for Racing Commission
Phone Number:	328-2148	Date Prepared:	03/26/2007

FISCAL NOTE
Requested by Legislative Council
03/14/2007

Amendment to: Engrossed
 HB 1126

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$307,625	\$740,966	\$307,625	\$740,966
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

There is no effect on appropriations because the purse, breeders and promotion funds are considered continuing appropriations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2209 as amended into HB 1126 is requiring an expenditure of \$60,000. Racing Comm. budget has no funding for this amendment. If approved above our current allocation the Comm. will need an additional \$60,000 in funding for the Attorney Gen. cost of Auditing and investigation.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Due to a basic change in tax rate or percentage, the general fund will receive an estimated additional 307,625 in 2007-09. The purse, breeders, and promotional funds will receive an estimated additional \$740,966 in 2007-09.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

None - continuing appropriations.

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	328-4633	Date Prepared:	03/16/2007

FISCAL NOTE
Requested by Legislative Council
01/17/2007

REVISION

Bill/Resolution No.: HB 1126

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$307,625	\$740,966	\$307,625	\$740,966
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

There is no effect on appropriations because the purse, breeders and promotion funds are considered continuing appropriations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Due to a basic change in tax rate or percentage, the general fund will receive an estimated additional 307,625 in 2007-09. The purse, breeders, and promotional funds will receive an estimated additional \$740,966 in 2007-09.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

None - continuing appropriations.

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	328-4633	Date Prepared:	01/09/2007

FISCAL NOTE

Requested by Legislative Council

01/10/2007

REVISION

Bill/Resolution No.: HB 1126

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$239,738	\$437,909	\$560,625	\$1,178,875	\$560,625	\$1,178,875
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

There is no effect on appropriations because the purse, breeders and promotion funds are considered continuing appropriations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Due to a basic change in tax rate or percentage, the general fund will receive an estimated \$560,625 in 2007-09. The purse, breeders, and promotional funds will receive an estimated \$1,178,875 in 2007-09.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

None - continuing appropriations.

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	328-4633	Date Prepared:	01/09/2007

FISCAL NOTE
Requested by Legislative Council
01/02/2007

Bill/Resolution No.: HB 1126

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$239,738	\$437,909	\$560,625	\$1,178,875	\$560,625	\$1,178,875
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

There is no effect on appropriations because the purse, breeders and promotion funds are considered continuing appropriations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Due to a basic change in tax rate or percentage, the general fund will receive an estimated \$580,000 increase. The purse and breeders fund will receive an increase of an estimated \$585,000 and the promotional fund will receive an estimated increase in revenue of \$1,177,000.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

None - continuing appropriations.

Name:	Sandy Paulson	Agency:	OMB for Racing Comm
Phone Number:	328-2148	Date Prepared:	01/09/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1126

Page 1, line 1, after "53-06.2-01" insert "and a new subsection to section 53-06.2-04"

Page 1, line 2, after "fund" insert "and to the duties of the racing commission"

Page 1, after line 11, insert:

"SECTION 2. A new subsection to section 53.06.2-04 of the North Dakota Century Code is created and enacted as follows:

Provide notice to the North Dakota Horsemen's Council of meetings held by the commission and permit the North Dakota Horsemen's Council to participate in the meetings through placement on the agenda if the Council so desires."

[^]
of items

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1126

Page 1, line 1, after "53-06.2-01" insert "and a new subsection to section 53-06.2-04"

Page 1, line 2, after "fund" insert "and to the duties of the racing commission"

Page 1, line 10, after the underscored comma insert "and"

Page 1, line 11, remove "and paying the commission's operating expenses"

Page 1, after line 11, insert:

"SECTION 2. A new subsection to section 53-06.2-04 of the North Dakota Century Code is created and enacted as follows:

Report biennially to the legislative council regarding the operation of the commission."

second

Page 6, line 11, after "commission" insert ", upon approval of the emergency commision,"

Renumber accordingly

House Amendments to HB 1126 (78076.0103) - Judiciary Committee 01/16/2007

Page 1, line 1, after "53-06.2-01" insert "and two new subsections to section 53-06.2-04"

Page 1, line 2, after "fund" insert "and to the duties of the racing commission"

Page 1, line 10, after the underscored comma insert "and"

Page 1, line 11, remove ", and paying the commission's operating expenses"

Page 1, after line 11, insert:

"SECTION 2. Two new subsections to section 53-06.2-04 of the North Dakota Century Code are created and enacted as follows:

Report biennially to the legislative council regarding the operation of the commission.

Provide notice to the North Dakota horsemen's council of meetings held by the commission and permit the North Dakota horsemen's council to participate in the meetings through placement of items on the agenda."

House Amendments to HB 1126 (78076.0103) - Judiciary Committee 01/16/2007

Page 6, line 11, after "commission" insert ", upon approval of the emergency commission."

Renumber accordingly

Date: 1-15-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1126

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended w/ Rereferral to Approp.

Motion Made By Rep. Delmore Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Onstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1126: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1126 was rereferred to the Appropriations Committee.

Page 1, line 1, after "53-06.2-01" insert "and two new subsections to section 53-06.2-04"

Page 1, line 2, after "fund" insert "and to the duties of the racing commission"

Page 1, line 10, after the underscored comma insert "and"

Page 1, line 11, remove ", and paying the commission's operating expenses"

Page 1, after line 11, insert:

"SECTION 2. Two new subsections to section 53-06.2-04 of the North Dakota Century Code are created and enacted as follows:

Report biennially to the legislative council regarding the operation of the commission.

Provide notice to the North Dakota horsemen's council of meetings held by the commission and permit the North Dakota horsemen's council to participate in the meetings through placement of items on the agenda."

Page 6, line 11, after "commission" insert ", upon approval of the emergency commission."

Renumber accordingly

2007 HOUSE APPROPRIATIONS

HB 1126

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB ~~1120~~ 1126

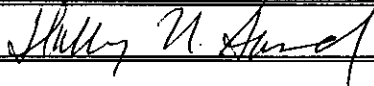
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1534

Committee Clerk Signature



Minutes:

Chm. Svedjan opened the hearing on HB 1126.

Rep. Duane DeKrey, Chairman, Judiciary Committee, described HB 1126. The first \$11 million goes to the state and after it gets to the \$11 million then the money goes to the Racing Commission.

Chm. Svedjan: Could you be more specific on how the proceeds are generated?

Rep. DeKrey: The proceeds are generated by betting. The bill tells what percentage of the proceeds goes into the four different funds. It's not changing the makeup of the funds. It's changing the percentage of the taxes and at what point they get distributed to these funds.

Rep. Skarphol: The recent promotion fund, does it change how the funds can be utilized out of that particular fund?

Rep. DeKrey: No.

Rep. Skarphol: Section 1 of the bill gives a definition of the racing promotion fund (lines 8 – 11). That's not a change?

Rep. DeKrey: Not in my understanding.

Chm. Svedjan: I presume we got this bill because of its impact on revenues only. Is there anything else we should know about?

Rep. DeKrey: The only policy change is we put it in statute that the advisory to the commission be by law be put on the agenda of their meetings. There is some concern regarding the advisory group being able to get into the meetings of the commission. There was a breakdown in communication between the advisory group and the commission.

Rep. Carlson: This appears to be going back to the way we used to do betting and payouts to attract the long distance better (Ref: 5:09).

Rep. DeKrey: What we're doing here, is the breakage which used to go to the promotional fund. Then we took the breakage to the simulcast. Now the breakage will be going back to the promotional fund.

Rep. Carlson: When we \$700,000 more, something has changed. Are the payouts bigger? Smaller? Are you anticipating much more volume?

Rep. DeKrey: The payouts for the people who bet into this parimutuel pool are not going to change. The big difference is that that breakage will be going back to that fund instead of simulcast operators.

Rep. Skarphol: Would it be appropriate to put language in the bill that the money cannot be expended until the following bienniums to ensure that the money we anticipate spending is actually there?

Rep. DeKrey: That would probably be a good idea.

Rep. Nelson: Why are there two different levels of taxation?

Randy Blaseg, Director of Racing, North Dakota Racing Commission: It is simply two different betting formats and therefore they have two different formats for the state general fund tax (Ref. 9:06).

Rep. Nelson: I still don't understand what separates those two wagers that requires the extra one-half percent.

Mr. Blaseg: Racing Commissions know that the betting public will bet more money on the exotics primarily because the pools are larger so the payoffs are bigger.

Rep. Skarphol: Considering the amount of revenue it's perceived to generate, it's small enough that I don't think it would have a large impact on our appropriations in this session. And I think it would give us more certainty in the amount of money we have to appropriate in future bienniums.

Rep. Skarphol motions to have an amendment drafted. Rep. Klein seconded the motion.

Rep. Carlson: We have their budget as well. Would it make more sense to put it on their budget bill?

Rep. Skarphol: I would have no problem doing that.

Rep. Kroeber: I would like OMB or Legislative Council confirm that fact. I'm not sure that's true on the lottery. I think in the Governor's budget it's a guesstimate. I don't think he goes on last year's budget.

Allen Knudsen, Legislative Council: On the lottery, it's a separate item of revenue to the general fund for the biennium. It's similar here with the racing revenue. The \$307,000 would be added to the general fund revenue estimate for the next biennium. If that would be short, there would just be less money in the general fund by that amount. A small amount of the special funds goes for their operating costs, that is appropriated in the Racing Commission budget. The rest of it, there is a continuing appropriation that allows them to spend that money. If the money doesn't come in, they're not able to spend it (Ref. 13:39).

Rep. Skarphol: Are the Fiscal Note projections realistic or somewhat optimistic?

Mr. Blaseg: The numbers in the fiscal note are based strictly on what was handled this past year. I did not include any inflation.

Rep. Skarphol withdrew his motion. Rep. Klein withdrew his second.

Rep. Wald moved a Do Pass to HB 1126. Rep. Hawken seconded the motion. The motion carried by a roll call vote of 21 ayes, 2 nays and 1 absent and not voting. Rep. Onstad was designated to carry the bill.

HH #3 2-26-07

78076.0201
Title.

Prepared by the Legislative Council staff for
Representative Boehning
February 22, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1126

Page 1, line 1, replace "two" with "three"

Page 1, line 13, replace "Two" with "Three"

Page 1, after line 19, insert:

"Complete, distribute, and post on the commission's web site the minutes of each commission meeting within thirty days of that meeting or before the next meeting of the commission, whichever occurs first."

Renumber accordingly

Date: 1/22/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1126

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Wald Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleon	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓	✓	Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	✓
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 21 No 2

Absent 1

Floor Assignment Rep. Onstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 24, 2007 11:14 a.m.

Module No: HR-14-1112
Carrier: Onstad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1126: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS
(21 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1126 was placed on the
Eleventh order on the calendar.

2007 SENATE JUDICIARY

HB 1126

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1126

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3856

Committee Clerk Signature

Mina L. Solberg

Minutes: Relating to the definition of the racing promotion fund and to the duties of the racing commission.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

Testimony in Favor of the Bill:

Randy Blaseg, Dir. of the ND Racing Commission (meter :46) Introduced the bill and gave his testimony – Att. #1.

Sen. Nelson requested the definition to a "walk-up handle" verses an Account or Wager method. (by phone). (meter 2:14)

Sen. Nething (meter 5:46) stated while he understands the intent but he did not the bill. He questioned, is the bill a tax deduction? **Mr. Blasig** replied, the old tax rate of approximately 4-4 ½% across the board year round. With this bill that rate would be in place in the first \$11 million on account wagering. Once you have reached that first \$11 million the tax rate would drop to ¼ of 1%. That rate would they be divided by four separate funds; spoke of the funds. Spoke of the different taxes for the different betting. The reason of the bill is that at a lower tax

rate we will be more competitive and to attract the high bidders. He reviewed the betting process with and "account" and how an account can only wager what it has in it.

Sen. Nething referred to where the "\$11 million" is in the bill. They reviewed what the current law was and how the new structure would work (meter 9:37)

Sen. Feibiger made a reference to the Oregon and South Dakota Statute. **Sen. Olafson** questioned the fairness of the small wagers verses the high wagers with this change. **Mr. Blaseg** stated that the wagers were the same as the track. This is only an incentive for the high volume players. In ND there are very few high volume players. He spoke to the increase tax revenue it will bring to the state. **Sen. Nething** discussed the fund (meter 15:48)

Mr. Citchy, Premier Turf Club, spoke in favor of the bill. He discussed the sunset and the history last session. Currently the competition is the off shore sites, they do not pay any taxes. The business is cost and technology driven. He spoke of the tracking process, were the \$11 million dollar amount comes from, last 2 years they taxed \$10 million. Discussed walk-up sites, the Fargo operation and the real competition to ND is Churchill downs and the use of the off shore sites.

Tom Trenbeath, Attorney General's office proposed an amendment from a bill heard in our committee that failed in the house (SB 2209). He reviewed the license process. Either party can say no to an applicant. Only the racing commission can say yes.

Sen. Nething stated if the audit provision is critical to the bill, how important is the license provision to you? They discuss the background checks and the veto power. If this bill moves forward it will be even more important for us to do this process.

Rep. Randy Boehning, Dist. #27 introduced an amendment-Att. #3. Spoke of the history of the organization and requested that the minutes from the meetings be prepared by 30 days after.

Testimony Against the bill:

Mike Cichy – spoke in opposition to the amendments stating that they have limited staff. The minutes are always recorded after every meeting and did not want to clutter the process further. Also stating that in reference to that Fargo case, you can not do anything until a crime has been committed. He referred to a wagering software tracking and other issues with computers.

Sen. Nething asked him if there was a choice (meter 31:44) of having no bill or having it with the amendments. He responded keeping the bill, stating that a requirement to “self report” would be more effective. Sen. Olafson questioned a statement made by Mr. Cinchy (meter 33:00)

Lane Bockhouse, spoke that the “Purse Fund” should not be used for other uses. (meter 33:10)

Doug Plummer, self - spoke of the same and would like the A.G.’s department to get involved with the organization.

Testimony Neutral to the bill:

None

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1126

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4873

Committee Clerk Signature *Maria L. Salby*

Minutes: Relating to the definition of the racing promotion fund and the duties of the racing commission.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

The committee requested **Tom Trenbeath**, Attorney General's office to review for them his amendment – Att. # 2 dated 2/26. They discussed the amendment Att. # 2 would only lend more credibility to the commission. Sen. Nelson made the comment that a meeting minutes usually get approved at the next meeting and she spoke to good amendments on a bad bill. Mr. Trenbeath looked up in the century code what the law states and they spoke of minutes not approved being “unconfirmed” minutes.

Sen. Nething stated that we as a committee passed SB 2209 and the bill was killed in appropriations. He is learning more about horse racing than he cares to.

Sen. Nelson made the motion to Do Pass Amendment – Att. #2 from 2/27 and **Sen. Lyson** seconded the motion. All members were in favor and the motion passes.

Sen. Olafson made the motion to Do Pass Amendment – Att. #3 from 2/27 and **Sen. Lyson** seconded the motion. All members were in favor and the motion passes.

Sen. Nelson made the motion to Do Not Pass HB 1126 as amended and **Sen. Lyson** seconded the motion. All members were in favor except for Sen. Olafson and the motion passes.

Carrier: **Sen. Marcellais**

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1126**

Senate **Judiciary Committee**

☐ Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: 4962

Committee Clerk Signature

M. F. Salvo

Minutes: Relating to the definition of the racing promotion fund and the duties of the racing commission.

Senator David Nothing, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Nelson made the motion to recall HB 1126 and **Sen. Lyson** seconded the motion. All members were in favor and the motion passes.

Sen. Fiebiger was not present when the bill was passed out of committee and would like the concerns spoken to. He thought that there was no fiscal note and the bill would allow them to continue to operate. **Sen. Nothing** referred to the amendments that were passed on the bill. His problem with the bill was he viewed it as an extension of gambling. **Sen. Fiebiger** did not see how this was an extension and **Sen. Nothing** stated that with the tax break it would attract more people to the state to gamble. The committee members were very in favor of the amendments. Stating that they like the amendment but do not like the bill and the process of taking the amendment

Sen. Olafson stated that the amendments were so important that he was willing to pass the bill for the amendments.

Sen. Olafson made the motion to Do Pass HB 1126 as amended and **Sen. Fiebiger** seconded the motion. All members were in favor except for Sen. Nething and the motion passes.

Carrier: **Sen. Marcellais** will continue to carry the bill

Senator David Nething, Chairman closed the hearing.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1126

Page 1, line 4, after "reenact" insert "subsection 4 of section 53-06.2-05, subsection 1 of section 53-06.2-07, subsection 4 of section 53-06.2-08, section 53-06.2-10.1 and ", after "53-06.2-11" and insert "subsection 2 of section 54-06.2-13", and remove "taxes on"

Page 1, after line 19, insert:

"SECTION 3. AMENDMENT. Subsection 4 of section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. The commission may obtain from the bureau of criminal investigation, without charge, criminal history record information as required in the licensing process.

SECTION 4. AMENDMENT. Subsection 1 of section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

1. On compliance by an applicant with this chapter and the approval of the attorney general, the commission may issue a license to conduct races. The attorney general may not grant a license denied by the commission.

SECTION 5. AMENDMENT. Subsection 4 of section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, service providers, employees of racing associations, and such other persons as determined by the commission. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. License fees are as established by the commission.

SECTION 6. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast parimutuel wagering may be conducted in accordance with this chapter and interim standards that need not comply with chapter 28-32, or rules adopted by the commission under this chapter. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast parimutuel wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. Licensure of service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow parimutuel pools in other states to be combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Parimutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits parimutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of parimutuel wagering in which an individual deposits money in an account and uses the account balance to pay for parimutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general and authorized by the commission to operate the simulcast parimutuel wagering system under the certificate system. The attorney general may not grant licenses denied by the commission. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions."

Page 8, after line 20, insert:

"SECTION 8. AMENDMENT. Subsection 2 of section 53-06.2-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general may audit and investigate licensed service providers and affiliated companies authorized by the commission to operate the simulcast parimutuel wagering system, totalizator companies, site operators, or organizations applying to conduct or conducting parimutuel wagering. The attorney general may:
 - a. Inspect all sites in which parimutuel wagering is conducted.
 - b. Inspect all parimutuel wagering equipment and supplies.
 - c. Seize, remove, or impound any parimutuel equipment, supplies, or books and records for the purpose of examination and inspection.
 - d. Inspect, examine, photocopy, and audit all books and records.

The commission shall reimburse the attorney general for all services rendered to the racing commission auditing and investigation. Payment for ~~the services~~ auditing and investigation must be deposited in the attorney general's operating fund."

Roll Call Vote # /

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1126

Senate	Judiciary	Committee
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☐ Check here for Conference Committee**Legislative Council Amendment Number**

Action Taken Do Pass Amend ATT #2 2/24

Motion Made By Sen. Nelson Seconded By Sen. Lyson

[illegible]

Total Yes 6 No 6

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-12-07

Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1126

Senate _____ Judiciary _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amend ATT #1 2/26

Motion Made By Sen. Olafson Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	/		Sen. Flebiger	/	
Sen. Lyson			Sen. Marcellais		
Sen. Olafson			Sen. Nelson		

Total Yes 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-12-07

Roll Call Vote # 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1126

Senate _____ Judiciary _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amended

Motion Made By Sen Nelson Seconded By Sen Lyson

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Flebliger		A
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson		✓	Sen. Nelson	✓	

Total Yes 4 No 1

Absent 1

Floor Assignment Sen. Marcellais

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote # 1 of 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1126

Senate	Judiciary	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Reconsider Comm. Action

Motion Made By Sen. Nelson Seconded By Sen. Lyson

[illegible]

Total Yes 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

JB
3-12-07
1 of 3

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1126

Page 1, line 1, replace "two" with "three"

Page 1, line 4, replace "section" with "subsection 4 of section 53-06.2-05, subsection 1 of section 53-06.2-07, subsection 4 of section 53-06.2-08, sections 53-06.2-10.1 and", after "53-06.2-11" insert ", and subsection 2 of section 53-06.2-13", and remove "taxes on"

Page 1, line 13, replace "Two" with "Three"

Page 1, after line 19, insert:

"Complete, distribute, and post on the commission's web site the minutes of each commission meeting within thirty days of that meeting or before the next meeting of the commission, whichever occurs first.

SECTION 3. AMENDMENT. Subsection 4 of section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. The commission may obtain from the bureau of criminal investigation, without charge, criminal history record information as required in the licensing process.

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1. On compliance by an applicant with this chapter and the approval of the attorney general, the commission may issue a license to conduct races. The attorney general may not grant a license denied by the commission.

SECTION 5. AMENDMENT. Subsection 4 of section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, service providers, employees of racing associations, and such other persons as determined by the commission. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. License fees are as established by the commission.

SECTION 6. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack,

2.43

simulcast parimutuel wagering may be conducted in accordance with this chapter and interim standards that need not comply with chapter 28-32, or rules adopted by the commission under this chapter. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast parimutuel wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. Licensure of service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow parimutuel pools in other states to be combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Parimutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits parimutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of parimutuel wagering in which an individual deposits money in an account and uses the account balance to pay for parimutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general and authorized by the commission to operate the simulcast parimutuel wagering system under the certificate system. The attorney general may not grant a license denied by the commission. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions."

Page 8, after line 20, insert:

"SECTION 8. AMENDMENT. Subsection 2 of section 53-06.2-13 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The attorney general may audit and investigate licensed service providers and affiliated companies authorized by the commission to operate the simulcast parimutuel wagering system, totalizator companies, site operators, or organizations applying to conduct or conducting parimutuel wagering. The attorney general may:
 - (1) Inspect all sites in which parimutuel wagering is conducted.
 - (2) Inspect all parimutuel wagering equipment and supplies.
 - (3) Seize, remove, or impound any parimutuel equipment, supplies, or books and records for the purpose of examination and inspection.
 - (4) Inspect, examine, photocopy, and audit all books and records.

3 of 3

- b. The commission shall reimburse the attorney general for ~~all services rendered to the racing commission~~ auditing and investigation. Payment for ~~the services~~ auditing and investigation must be deposited in the attorney general's operating fund."

Renumber accordingly

Date: 3-13-07

Roll Call Vote # 2 of 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1126

Senate _____ Judiciary _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen. Olafson Seconded By Sen. Flebiger

Senators	Yes	No	Senators	Yes	No
Sen. Nething		✓	Sen. Flebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 5 No 1

Absent 0

Floor Assignment Sen. Marcellais

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1126, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1126 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "two" with "three"

Page 1, line 4, replace "section" with "subsection 4 of section 53-06.2-05, subsection 1 of section 53-06.2-07, subsection 4 of section 53-06.2-08, sections 53-06.2-10.1 and", after "53-06.2-11" insert ", and subsection 2 of section 53-06.2-13", and remove "taxes on"

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- (4) Inspect, examine, photocopy, and audit all books and records.
- b. The commission shall reimburse the attorney general for ~~all services rendered to the racing commission~~ auditing and investigation. Payment for the ~~services~~ auditing and investigation must be deposited in the attorney general's operating fund."

Renumber accordingly

2007 SENATE APPROPRIATIONS

HB 1126

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1126**

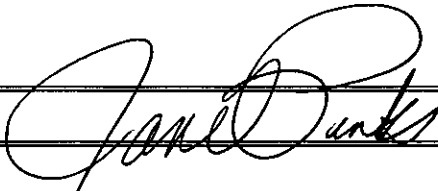
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: **March 20, 2007**

Recorder Job Number: **5320**

Committee Clerk Signature



S Holmberg: : *asked how many in favor, in opposition.*

Randy Blazek, Director of Racing for the Racing Commission

S Christmann: I'm seeing a lot of pages here, what is the bill number, the council number that we're on? Is there a first engrossment.?

S Holmberg: 300 would be the newest. There is a fiscal note dated 3-14-07. It's called "First Engrossment with Senate Amendments" Now, the other Randy.

Randy B: The bill was written with one main objective in mind. The bill we currently have in place, sunsets June 30, and when that occurs, the tax rate will then elevate to a level where we will lose all of our current "big betters" in ND. This tax bill, 1126 is designed to retain those big betters. This past year, we wagered over \$74 million dollars in ND and of that \$74 million, approximately \$68 million would have been wagered by people living outside of the state. It is important that 1126 seek a DO PASS in order to retain the money that is being generated in the state. With respect to the amendments and fiscal note, racing commission is fully supportive of the fiscal note involving the Attorney General (AG), in that we need the assistance of the AG in helping regulate, investigate, and audit. There is a slight problem with financing this, and hopefully we can come with a method that is satisfactory to all. We definitely need this bill to pass, and don't want the fiscal note to prevent that. I would encourage discussion on what we may or may not be able to do involving that.

S Boman: Take that a big further on the shortage of money for the AG, where are we going with this dollar wise? It will come down to dollars and cents when we get done.

Randy B: What occurred here when we put into our appropriations involving financing of the racing commission, this bill was brought after that had taken place and it wasn't figured into our current appropriations, therefore we don't have the funding for this particular fiscal expense.

S Grindberg: I think it was 4 years ago that a lot of this, there was a lot of contention, there were groups of horsemen in the hallways outside the committee room and all the sequence of events that have taken place in the last few years, it's nice to know you don't have groups of horsemen out there opposing this, I'd like to see, do you have statistics in the activity in betting in the last 4 or 5 years of volume so we can see the value and track this and give us a visual for the income and the betting levels by quarter? I'd like to see it if you have it available.

Do you or the AG office?

Randy B: I don't have it available by quarter, but I can provide to you in the last 3 years, a fairly good estimate. We've gone from 5.2 million to 35 million to 74 million in the past 3 years. We hopefully with 1126 can increase the volume of wagering and that's the intent of the bill.

S Grindberg: I have been handed a document the council has prepared at the House requesting it appears it gives everything I was asking for and then some. I'll make copies for everyone.

S Seymour: Is there an emergency clause in this bill?

Randy B: No.

S Christmann: Is the AG office auditing this as opposed to the auditor's office or some other alternative? How much money is in the racing promotion fund to pay these additional expenses? Is the emergency commission the right place we want approving these?

Randy B: At current time there is approximately \$800,000 in the promotion fund. We're supportive of having the AG audit the simulcast funds, we have no problem with that at all, we would encourage that. As to the emergency commission, I don't have the answer.

S Krauter: I'm trying to catch what's changing in the percentages of the fund, and having difficulty. Are there actually percentage changes? When you go to the promotional fund, are the percentages changing?

Randy B: I can give you a description as to 1126, what it will do is this. In an account-wagering format, the tax rate will be approximately 4% on the first eleven million dollars wagered. Of that, 4% would go to the general fund. At the present time we are sitting at $\frac{1}{4}$ of 1%, of every dollar wagered is taxed and then divided between four funds. Promotion fund, the general fund, purse fund, breed fund. HB1126 would, on the first 11 million dollars of account wagering, approximately 2% would go to the general fund, $\frac{1}{2}$ of 1 % would go to the breed fund, $\frac{1}{2}$ of 1% to the purse fund, $\frac{1}{2}$ of 1% to the promotion fund. Once they had reached the 11 million dollars in "hand out" in the biennium, it would then drop by to $\frac{1}{4}$ of 1% where it is currently at. That tax advantage would evaporate if we do not put this bill in place. Without this bill, the tax rates stay elevated, and as a result of that we will lose the big betters. That in essence is why this bill was created.

Question: We're actually changing some percentages here?

Randy B: At the present time, as wagering is taking place, they are receiving $\frac{1}{4}$ of 1% tax. The bill that is in place AT THIS TIME, only July 1 will go back to a higher rate that stays in place and because of that, big betters will leave.

S Tallackson: Will you touch on the problem, on the shortage of funds through the AG, what is the problem?

Randy B: It wasn't budgeted for when we applied for our funding this year.

S Tallackson: How much is it?

Randy B: Approximately \$60,000. We will work with this, definitely in favor of the AG hearing into this.

S Mathern: You put part of this money into the AG budget? There is some money there already to address this issue? Are you aware of that?

Quote from someone: The AG's office includes \$60,000 in funds from the Racing Commission on the promotion fund.

S Christmann: I'm still struggling to understand. When you say that the bill that is in place now will cause a tax change and we'll lose these big betters, you mean the LAW that is in place now?

S Mathern: That is correct.

Mike Sichy, Premier Trip Club, *Passing out a flyer that is being passed around.*

The original legislation was for 2 years and had a 2 year sunset on it. That is what has brought and kept the big players here. As a service provider in ND, under the tax legislation that is here and makes it competitive with everyone else in the world. I come up with the cut-rate gas station scenario and the cost of doing business. It's not the same as it was 10 years ago. The rates for the tax goes up and the profit margin goes down. S Grindberg mentioned 4 years ago we discussed this, we didn't address it properly at the time, and the players went away.

S Grindberg (?)

We addressed it as a policy in the appropriations committee, but all hell broke loose after we adjourned. It wasn't anything the Legislative body did.

Mike S: I'm sorry, I meant collectively we just didn't have it without 20 fingers in it. The bill was competitive, we were getting players in here since 1996, it's generated millions of dollars to the general fund. The taxes from the big players are what built the whole park in ND. A minimum

of \$400,000 each comes out of the first \$11 million that was mentioned earlier to the general fund and the horse fund. The walk-up business is being subsidized intra structure, we operate on subsidizing.

Ryan Burnstein, Council to the Governor

Wanted to clarify one thing of the budget. There are two parts to this bill. One is taxation through the racing promotion fund and mechanics and how that works out, and the second part they've been working on is the licensing and auditing and investigation. There is \$60,000 in the budget to give the AG's office FDE to help with licensing approval. The question comes up, there is a provision in the back of the bill that allows the AG's office to bill the racing commission for the audits that they do. Most likely for BIG audits out of state that are more specific to Para mutual wagering, which is very complex. They could bill the racing commission for that.

S Tallackson: Does that mean we should put \$60,000 in this bill?

Ryan B: No, I'm not advocating for a certain dollar amount or advocating at all, but maybe some provisions for the racing commission to be able to come up with those funds, if they were indeed imbursed with the AG office. Maybe someone would know better where the \$60,000 coming from, I know that is a specific number. I don't think anyone has an idea what that amount would be.

Representative Randy Boehning, Dist. 27, Fargo

I'd like to offer an amendment on to the bill. *Passed out copies of the amendment.*

My amendment takes out of the statute, the statute that we need to comply with 2832.

Currently with the interim standards, the racing commission does not have to go through public hearings. This is the only agency that is under this judician of law, we do need to put some authority.

S Tallackson: Were these amendments offered in either policy committee in either the House or the Senate?

R Randy B: Yes, they were, I tried them in the Judiciary in the Senate. I was going to put them on in the Judiciary and bring the bill back.

S Tallackson: They were not offered in the House?

R Randy B: No. I did not get them drafted in time. We knew we wouldn't have the time, so we are here.

Lance Hagen, representing the people with Quarter Horse hats

Supportive of the bill, have visited with Tom on the \$68,000 in appropriations for the oversight of the AG. Our concern we need to see in its present form, right now, that money is in flux. We would hate to see you take that money out of the promotion fund and take it from the promotion fund and hand it to the budgeting process for the commission. Mr. Sitchy's proposal will add \$50 for every \$10 million wagered. That should be plenty of money to pay for this.

S Lindaas: Are you in favor of the amendments that were just handed to us?

Lance H: Yes, we certainly are. I served on the commission for 7 years, and this is a process that's long overdue, should have been done in 2001 when we started it, and for some reason it never did. The amendments were prepared the day before the 8th Circuit Court of Appeals opinion came out and said there's a problem with the rules in the commission.

Added comment: The concept of the audit and all the rest of it, every wager, every bit of information involved in Para mutual wagering is digitalized. It's in a report, it's in the system, they are very easy to read, the idea that it would take \$60,000 with a professional auditor to understand it, I assure you that anybody in this room that sat down with me for ten minutes and looked at the reports, you'd understand them. The numbers are there, it was a question of the concept of rules, it wasn't the audit reports.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1126

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 3/22/07

Recorder Job Number: unknown

Committee Clerk Signature

Janet Pinks

Minutes:

Chairman Holmberg opened the hearing on HB 1126 with discussion of amendment 0202.

Senator Krauter questioned if this referred to the lottery or simulcast gaming rules.

Senator Krauter indicated that between last session and today they drug their feet. Now we have to get them to do it. We appropriate funding to do that, get amendments written right and hopefully remain on track.

Senator Krauter moved approval of the amendments, Senator Robinson seconded. An oral vote was taken resulting in the motion passing.

Senator Krauter moved a do pass as amended, Senator Robinson seconded. There was no discussion. A roll call vote was taken resulting in 14 yes votes, 0 no and 0 absent. The motion passed. Senator Marcelleis will carry the bill.

Chairman Holmberg adjourned the hearing.

Date: 5/22
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1126

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

DR As Amend

Motion Made By

Krauter

Seconded By

Robinson

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No _____

Absent _____

Floor Assignment

Sen. Marcelleau jud

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1126, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1126, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 798-800 of the Senate Journal, Engrossed House Bill No. 1126 is amended as follows:

Page 1, line 1, replace "two" with "three"

Page 1, line 4, replace "section" with "subsection 4 of section 53-06.2-05, subsection 1 of section 53-06.2-07, subsection 4 of section 53-06.2-08, sections 53-06.2-10.1 and", after "53-06.2-11" insert ", and subsection 2 of section 53-06.2-13", and remove "taxes on"

Page 1, line 13, replace "Two" with "Three"

Page 1, after line 19, insert:

"Complete, distribute, and post on the commission's web site the minutes of each commission meeting within thirty days of that meeting or before the next meeting of the commission, whichever occurs first.

SECTION 3. AMENDMENT. Subsection 4 of section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

4. License all participants in the racing and simulcast parimutuel wagering industry and require and obtain information the commission deems necessary from license applicants. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. The commission may obtain from the bureau of criminal investigation, without charge, criminal history record information as required in the licensing process.

SECTION 4. AMENDMENT. Subsection 1 of section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

1. On compliance by an applicant with this chapter and the approval of the attorney general, the commission may issue a license to conduct races. The attorney general may not grant a license denied by the commission.

SECTION 5. AMENDMENT. Subsection 4 of section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, service providers, employees of racing associations, and such other persons as determined by the commission. Licensure of service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. License fees are as established by the commission.

SECTION 6. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast parimutuel wagering may be conducted in accordance with this chapter ~~and interim standards that need not comply with chapter 28-32,~~ or rules adopted by the commission under this chapter in accordance with chapter 28-32. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast parimutuel wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. Licensure of service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow parimutuel pools in other states to be combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Parimutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits parimutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of parimutuel wagering in which an individual deposits money in an account and uses the account balance to pay for parimutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general and authorized by the commission to operate the simulcast parimutuel wagering system under the certificate system. The attorney general may not grant a license denied by the commission. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions."

Page 8, after line 20, insert:

"SECTION 8. AMENDMENT. Subsection 2 of section 53-06.2-13 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The attorney general may audit and investigate licensed service providers and affiliated companies authorized by the commission to operate the simulcast parimutuel wagering system, totalizator companies, site operators, or organizations applying to conduct or conducting parimutuel wagering. The attorney general may:

- (1) Inspect all sites in which parimutuel wagering is conducted.
- (2) Inspect all parimutuel wagering equipment and supplies.

- (3) Seize, remove, or impound any parimutuel equipment, supplies, or books and records for the purpose of examination and inspection.
- (4) Inspect, examine, photocopy, and audit all books and records.
- b. The commission shall reimburse the attorney general for ~~all services rendered to the racing commission~~ auditing and investigation. Payment for ~~the services~~ auditing and investigation must be deposited in the attorney general's operating fund."

Renumber accordingly

2007 HOUSE JUDICIARY

CONFERENCE COMMITTEE

HB 1126

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1126

House Judiciary Committee

☒ Check here for Conference Committee

Hearing Date: 4/20/07

Recorder Job Number: 6205

Committee Clerk Signature

APencose

Minutes:

Rep. Klemin: Called conference committee to order. Roll call. All present. We are here regarding HB 1126, the Senate made some amendments to this bill, the House refused to concur with those amendments. I am asking the House members that urged us not to concur, to explain their reasons why.

Rep. Meyer: We've been working on this bill a long time, and we really wanted it to be done correctly, succinctly and very fairly to all the parties involved. As you know, this deals with the pari-mutuel taxing structure. We've been working on this a long time, these are very simple amendments that we are passing out, and basically we are hoping to accomplish on page 8, of the engrossed version.

Rep. Klemin: Actually, the way you have this amendment, as I looked at them, you referred to the first engrossment, which is .0200, so I think it might be more appropriate to look at that one, if you are going to look at page and lines, to match up your amendments.

Sen. Lyson: Which one are we on.

Rep. Klemin: .0200, I think that is the one we should be working from.

Rep. Meyer: Basically, this provides for a sunset clause, so that we can revisit this in four years, in case there are any inequities in the tax structure, if it's working or not working, this is such a fast paced industry and we will need to revisit this. That's one of the first ones.

Rep. Klemin: You said so that we can revisit this in four years; however, the amendment says June 30, 2009, which is two years.

Rep. Meyer: I agree, we had done this so many times, and had requested it to be two biennium's, June 30, 2011.

Rep. Klemin: Why do we want to put a sunset clause on this bill.

Rep. Meyer: This bill deals with your pari-mutuel wagering and your taxes. This is why we said that the tax structure that we have in place now would sunset in 2007; which is this year so this hasn't come in, and we changed the tax structure in this bill from what it was previously.

We're just trying to adjust the tax rate so that we can better track our three funds and it was very beneficial to have the sunset on it so that we can go in and see how it was being applied now, and we just feel like in four years it will be good to have something on this, so that you will be forced to come to the table and look at it again, so that we can adjust the rates for the new sites coming on line, pari-mutuel pact differentials maybe should be changed. We can adjust the three funds, into the promotion fund, the breed fund and the purse fund. As long as we know it is going to sunset, we'll basically have to revisit it, which I feel is a very good thing to do for everyone involved with this for this industry; just so that we have a chance to look at it again. It was very beneficial when we looked at it this time to address the taxing structure.

Sen. Lyson: But there were other things in your amendments that you changed, like on page 6.

Rep. Meyer: Yes, and the only other addition to this would be on page 6, this is a new provision that we put in when we looked at the sunset clause. This hadn't been done

previously. This said that all pari-mutuel wagering was going into the promotion fund, and basically the only thing that this amendment would do, is put 50% into the promotion fund and 50% into the breeder's fund. Those were the only two differences.

Sen. Lyson: Could you maybe give me an opinion of what, I just don't want to get into something that I'm not sure what I'm doing here. The rules for a committee like this, is only recommendations for consideration of the general differences that gave rise to the appointment of the committee. I don't see here that there was any arguments in the areas that she is talking about; especially on page 6.

Rep. Klemin: There are two distinct amendments here. One is the effective date or sunset clause which is in both the House as amended and in the Senate bill as amended.

Sen. Lyson: I agree and I have no problem with that.

Rep. Klemin: The second one, the part on page 6, that's where you are addressing your concern.

Sen. Lyson: Yes.

Rep. Klemin: That doesn't comply with the rule of the conference committee.

Sen. Lyson: It appears to me when I read it...

Rep. Boehning: I was going to touch on page 6, line 1 and 2. When we looked at that, the Racing Commission is still going to receive more money because they are going getting a 1/3 of the breeder's fund.

Sen. Lyson: I don't think that's my argument. I am wondering if we should even be discussing it at a conference committee, under rule 5, the portion of page 6.

Rep. Klemin: So as I understand your position, Sen. Lyson you are saying that this particular amendment on page 6 is out of order.

Sen. Lyson: That's the way I read the rules, that's why I'm asking.

Sen. Olafson: Do I understand that the House is agreeing to the Senate amendments and wants to further amend, is that what I'm hearing here.

Rep. Klemin: That's the way this reads, that the House accedes to Senate amendments and further amends.

Rep. Meyer: That would be correct. I guess my logic with this is, this is a very complicated matter, even for the people in the industry. We read this, and reread it, and with this kind of a formula, this piece of legislation would cancel all parties involved. We're trying to just make this piece of legislation where all parties are involved in this, and the effect of this section of Code are treated equitably and fairly. I guess that's what we're going for. We, in no way, want to....this is a good bill. We're just trying to make it work for all parties involved.

Sen. Lyson: All I want to know is, if you tell me that I'm out of line in saying that we cannot discuss that because of the rules in the book, I will do as you say. But I think right now with the rules as they are here, that portion is not discussable because it's not something that the House or Senate disagree on.

Rep. Meyer: Perhaps you were unaware, as we were, of every single aspect of this bill. As I said, when we were trying to adjust this, and trying to go in there and go through this breakage and percentages and plug it into the fiscal note that we pulled up and read, we were just trying to get to the best deal we could. If you feel that it is a violation of the rules, we were hoping with this, that we would be allowed to look at the structure, so that we could come out with something where we have an amicable situation. If you're adamantly opposed to that, but with it, we were hoping that we could just move forward, put this in place, revisit it in four years and just see.

Sen. Lyson: If I can just cut to the chase. I guess I probably wouldn't even have brought this up, except that I know that the payments just went out from this thing from the Racing

Commission. If that's what's caused this, I feel bad about it, but I think what we're doing here is opening up a committee to discuss what the monies that are sent out by the Commission, and in that case, I think it should go back to a House committee or a Senate committee. I don't think this is the place. When I read this, I don't think this is the place for having this discussion.

Rep. Klemin: Was this something that was discussed in the House here on this bill, this particular amendment that you are talking about on page 6.

Rep. Boehning: I don't believe we did discuss that, it was about 50%.

Rep. Meyer: It seems to me that we did discuss it a lot.

Rep. Klemin: This line was not in the House bill nor was it in the Senate version of the House bill.

Rep. Meyer: This line was, but not the 50%. In the interest of just trying to get this piece of legislation passed, we were trying to come up with something that was...everybody compromised, so that we would have a piece of legislation that all of the parties that this bill will affect, feel like it is equitable and fair. There's so many good portions of this bill that we really like to keep that. The AG is given supervision and there are a lot of this that needs addressing. As a horseman, it just makes the two funding mechanisms more equitable.

Sen. Lyson: I'm not trying to be argumentative, we are talking about something that should have been brought up at a committee meeting and discussed there. We are in conference committee at this point, and I don't believe that this is something that we can deal with in a conference committee. If you would rule, I would go with whatever your ruling is.

Sen. Olafson: I tend to agree with Sen. Lyson, and I'm not unsympathetic to what Rep. Meyer is hoping to accomplish. As far as I know, it could be a very positive addition to the bill, but for it to come in now, as I look at the rule, I believe that Sen. Lyson's assertion is correct.

Sen. Fiebiger: The concern I would have is similar to what was expressed earlier. I'm not unsympathetic to the concerns, but I don't think in the Judiciary Committee that we heard testimony on this or made a decision on. I am a little troubled by trying at the last minute, to try and make this change without having heard testimony on it. I can't make an informed decision without that.

Rep. Meyer: What are the correct procedural moves that we could use to solve this.

Rep. Klemin: Well, the rule 301 are the joint rules; 301 subsection 5, conference committees appointed pursuant to this rule, shall confine their conferences and recommendations to consideration of the general differences that gave rise to the appointment of the committee. In no event, may a conference committee submit a divided report. I take it from the discussion that's been had by all parties, it seems as though the amendments that have been proposed by Rep. Meyer do not come within the scope of joint rule 301. Although I see that there are two distinct amendments in here, one of which is on the effective date of the sunset clause, is in both the House bill and Senate bill. It seems like even though there may be no general difference, it is a subject that could be discussed in the bill.

Sen. Lyson: I have absolutely no problem with that portion of the bill.

Rep. Klemin: The second amendment that has been proposed by Rep. Meyer, from what I can see, is not in any version of this bill, and from the discussion it's not part of the hearing held in either the House or the Senate. So I am going to rule that the second amendment that's proposed on page 6 is not in conformity with joint rule 301(5) and is not subject to consideration by this conference committee. I don't think I have any other alternative the way the rule reads. In regard to the first amendment, the sunset clause is there any further discussion.

Sen. Lyson: I would move the approval of the sunset clause.

Rep. Klemin: Is your amendment then that the way that this was being done, in .0206, that we just handed out would read just exactly the way it is down through page 1, line 22, except as has been mentioned by Rep. Meyer that instead of 2009 it should be 2011.

Sen. Lyson: That would be my motion.

Rep. Klemin: Is there a second. Hearing no second to the motion, motion fails. Further discussion.

Sen. Fiebiger: I know the discussion about the sunset clause, I understand what you set out as the rationale, but is there anything preventing us at some later time, coming back and revisiting this if we choose to, if we choose to do something else with it. It can certainly be visited at a later time.

Rep. Boehning: We can come back next session, and take a look at the whole bill and basically rework the whole bill, I guess. We are trying to make this a better bill. I guess we're not going to make a much better bill if we pass it how the bill is.

Sen. Lyson: The only reason I made the motion for the sunset is to make sure that we take it up in the next session.

Rep. Klemin: I think in reality, since you were intending the sunset clause in 2011 that would mean that it would be in effect through the next session of 2009, anyway, you can always bring the bill in the 2009 session without the sunset clause. We do need to resolve the bill though as a conference committee. I think bearing in mind what has happened so far, I would indicate in a motion that the House accede to the Senate amendments.

Rep. Boehning: I move that the House accede to the Senate amendments.

Sen. Lyson: Second.

5 YES 1 NO 0 ABSENT

HOUSE ACCEDE TO SENATE AMENDMENTS

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1126

That the House accede to the Senate amendments as printed on pages 1156 and 1157 of the House Journal and pages 926-928 of the Senate Journal and that Engrossed House Bill No. 1126 be further amended as follows:

Page 1, line 3, remove the second "and"

Page 1, line 5, after "wagering" insert "; and to provide an expiration date"

Page 1, line 22, replace "~~(Effective through June 30, 2007)~~" with "~~(Effective through June 30, 2007~~ 2009)"

Page 6, line 1, replace "to" with "of which fifty percent must"

Page 6, line 2, after "fund" insert "and fifty percent must be deposited in the breeders' fund"

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1126 (, as (re)engrossed):

Date: 4-20-07

Your Conference Committee House Judiciary

For the Senate:

For the House:

YES / NO			YES / NO		
Sen. Lyson	✓		Rep. Klemin	✓	
Olafson	✓		Boehning	✓	
Freibiger	✓		Meyer		✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1156 -- 1157

✓, and place 1126 on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1126 was placed on the Seventh order of business on the calendar.

DATE: 4-20-06

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Rep. Boehning

SECONDED BY: Sen. Lyson

VOTE COUNT 5 YES 1 NO 0 ABSENT

Revised 4/1/05

REPORT OF CONFERENCE COMMITTEE

HB 1126, as engrossed: Your conference committee (Sens. Lyson, Olafson, Fiebiger and Reps. Klemin, Boehning, S. Meyer) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1156-1157 and place HB 1126 on the Seventh order.

Engrossed HB 1126 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1126

January 2007

NORTH DAKOTA HORSE RACING - TOTAL HANDLE AND RACING-RELATED REVENUE COLLECTIONS

The following schedule details the total amounts bet (total handle) each year in the North Dakota simulcast system:

1990	\$28,000
1991	\$4,500,000
1992	\$5,631,088
1993	\$6,892,599
1994	\$6,961,396
1995	\$4,336,330
1996	\$5,168,000
1997	\$5,970,640
1998	\$8,963,637
1999	\$88,563,478
2000	\$151,883,021
2001	\$168,883,021
2002	\$172,157,185
2003	\$154,065,602
2004	\$5,669,278
2005	\$35,393,495
2006	\$74,517,019

The following schedule details racing-related tax collections deposited in various funds since 1993:

Biennium	General Fund	Breeders' Fund	Purse Fund	Promotion Fund	Total
1993-95	\$331,373	\$63,093	\$59,534	\$126,412	\$580,412
1995-97	\$235,521	\$58,683	\$56,605	\$183,326	\$534,135
1997-99	\$614,566	\$136,088	\$136,485	\$331,237	\$1,218,376
1999-2001	\$7,074,385	\$1,539,094	\$1,539,354	\$2,827,063	\$12,979,896
2001-03	\$7,801,692	\$1,631,114	\$1,631,114	\$2,694,880	\$13,758,800
2003-05	\$373,435	\$136,385	\$136,385	\$227,657	\$873,862
Fiscal year 2006	\$44,449	\$46,573	\$46,573	\$120,663	\$258,258

House Bill No. 1126

House Judiciary Committee and Chairman Duane DeKrey

January 10, 2007, 1:00 p.m.

Testimony of Randy Blaseg, Director of Racing for the ND Racing Commission

Chairman DeKrey, members of the House Judiciary Committee:

My name is Randy Blaseg and I am Director of Racing for the North Dakota Racing Commission. The focus of this legislation is to stabilize the parimutuel and horse race foundation in North Dakota. This legislation preserves the state's traditional walk-up handle that has been historically about \$11 million dollars per biennium and provides incentives for high volume players to participate in North Dakota's racing industry. This legislation will give incentive to high volume players to operate in North Dakota.

This bill keeps in place the higher tax rates for all walk-up handle. The incentive goes only to those players using account wagering and targets the high volume players. These high volume players are very price sensitive and the only way for them to make a profit is through high volume. Much the same as other high volume low margin industries. This legislation provides incentives and allows for long-term planning by high volume players.

The North Dakota Legislature was forward thinking during the past session when it created the incentive for the high volume player. North Dakota has established itself as a national player in attracting the type of activity that the tax incentive provides. There are presently two simulcast service providers licensed to operate in the state, and each will have high volume players operating

through their sites. These service provider hubs also provide quality jobs which is a boost to the local economy.

The North Dakota parimutuel and horse race industry has generated millions of dollars in taxes to the general fund which has supported the industry without general fund money. It also supports a promotion fund which helps build and maintain the tracks, a purse fund and a breeders' fund which financially recognizes breeders of North Dakota bred horses.

This legislation solidifies the tax approved by this legislature last session by making permanent the state's tax structure for pari-mutuel wagering. It also provides additional income to the Commission through the breakage component and again I cannot emphasize enough that the traditional walk up handle and any additional walk up handle will be at the higher rates. The reduced rates only come into play after 11 million dollars has been reached and only applies to account wagering.

The future of the horse race industry looks promising. It has grown from approximately \$5.2 million in 2004 to \$74 million in handle in 2006. However, because of the national competition, the high volume players will only stay if these incentives provided for in House Bill 1126 are in place. The high volume players seek jurisdictions that have stable tax and governance structures. Without this they will not invest in the state and if already here will move to an environment that is stable. The Commission supports this bill because it believes it is necessary to stimulate the industry and provide economic growth.

The Commission requests a do pass recommendation from the Committee.

HH #1
2-26-07

HB 1126

Senate Judiciary Committee and Chairman Dave Nething

February 26, 2007, 10:30 a.m.

Testimony of Randy Blaseg, Director of Racing, ND Racing Commission

Same given to Senate Appropriations

Chairman Nething, members of the Senate Judiciary Committee:

My name is Randy Blaseg and I am Director of Racing for the North Dakota Racing Commission. The focus of this legislation is to stabilize the pari-mutuel and horse race foundation in North Dakota. This legislation preserves the state's traditional walk up handle that has been historically about \$11 million dollars per biennium and provides incentives for high volume players to participate in North Dakota's racing industry. This legislation will give incentive to high volume players to operate in North Dakota.

This bill keeps in place the higher tax rates for all walk up handle. The incentive goes only to those players using account wagering and targets the high volume players. These high volume players are very price sensitive and the only way for them to make a profit is through high volume. Much the same as other high volume low margin industries, this legislation provides incentives and allows for long-term planning by high volume players.

The North Dakota Legislature was forward thinking during the past session when it created the incentive for the high volume player. North Dakota has established itself as a national player in attracting the type of activity that the tax incentive provides. There are presently two simulcast service providers licensed to operate in the state, and each will have high volume players operating through their sites. These service provider hubs also provide quality jobs which is a boost to the local economy.

The North Dakota pari-mutuel and horse race industry has generated millions of dollars in taxes to the general fund which has supported the industry without general

fund money. It also supports a promotion fund which helps build and maintain the tracks, a purse funds and a breeders fund which financially recognizes breeders of North Dakota bred horses.

This legislation solidifies the tax approved by this legislature last session by making permanent the state's tax structure for pari-mutuel wagering. It also provides additional income to the Commission through the breakage component. The reduced rates only come into play after 11 million dollars has been reached and only applies to account wagering.

The future of the horse race industry looks promising. It has grown from approximately \$5.2 million in 2004 to \$74 million in handle in 2006. However, because of the national competition, the high volume players will only stay if these incentives provided for in House Bill 1126 are in place. The high volume players seek jurisdictions that have stable tax and governance structures. Without this they will not invest in the state and if already here will move to an environment that is stable. The Commission supports this bill because it believes it is necessary to stimulate the industry and provide economic growth.

The objective is to improve live racing in North Dakota. Simulcast wagering is one of the vehicles we use to accomplish that goal.

The Commission requests a do pass recommendation from the Committee.

Testimony of Mike Cichy

House Bill No. 1126

Senate Appropriations Committee and Chairman Ray Holmberg

March 20, 2007

Senator Holmberg and members of the Committee, my name is Mike Cichy and I am with Premier Turf Club, a simulcast provider in Fargo and offer this testimony in support of HB 1246.

HB 1126 allows to continue the tax rate that has been in place this biennium and does not expand gaming.

It basically removes a sunset clause attached to tax legislation enacted in 2005.

This bill is necessary to remain competitive with other states such as South Dakota and Oregon (SD has the same tax as ND without a charity).

North Dakota has attracted the big player since 1996.

This systems has generated millions of dollars to both the General Fund and to the Horseman.

Taxes on big players paid for construction of the North Dakota Horse Park.

The simulcast industry finances live racing in Belcourt and Fargo, without it they could not operate.

Failure to pass HB 1126 will result in a loss of at least \$400,000 each to the General Fund and Horseman.

Failure to pass HB 1126 will eliminate simulcast wagering and live horse racing in North Dakota.

I ask for your support to keep the horse racing industry alive and well in North Dakota by recommending a do pass on HB1126.